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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/521,519	10/14/2005	Roland Welter	588.1042	2104
23280 7590 05/20/2008 Davidson, Davidson & Kappel, LLC 485 7th Avenue 14th Floor New York, NY 10018				
EXAMINER				
LEWIS, TISHA D				
ART UNIT		PAPER NUMBER		
3681				
MAIL DATE		DELIVERY MODE		
05/20/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/521,519

Applicant(s)

WELTER ET AL.

Examiner

TISHA D. LEWIS

Art Unit

3681

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 17 and 19-25 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 17 is/are rejected.
- 7) ☒ Claim(s) 19-25 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date 3/14/2008
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____

DETAILED ACTION

The following is a response to the amendment received on March 14, 2008 which has been entered.

Information Disclosure Statement

The information disclosure statement filed on March 14, 2008 has been considered.

Response to Amendment

Claims 17 and 19-25 are pending in the application. Claims 1-16, 18 and 26-33 are cancelled.

-The 102(e) and 102(b) rejections of claim 17 has been withdrawn due to applicant amending claim 17 with limitations not disclosed by the prior art of record used in the rejection.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tischer et al in view of Jager et al. Tischer et al discloses a master cylinder unit (22), a slave cylinder unit (18), a hydraulic medium line (20) connecting the master to the slave unit and a throttle valve (37) for adjusting a flow resistance between the cylinders. Tischer

et al discloses an actuator (38) configured to actuate the throttle valve, but doesn't disclose the use of a piston sensor and control unit for controlling the actuator.

Jager et al discloses an actuation system for a clutch having an actuator (13b), a piston sensor (14) configured to detect movement of a piston (11a) of a cylinder unit (11) and a control unit (13) connected to the piston sensor for controlling the actuator.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to provide the piston of the cylinders with a sensor to determine position of the piston and a control unit for controlling the actuator in Tischer et al in view of Jager et al to regulate the operation provided by the piston and throttle valve actuator of Tischer.

Response to Arguments

Applicant's arguments have been fully considered but they are not persuasive. Applicant argues that the Jager et al actuator 13b actuates the piston 11a of master cylinder and does not control any actuator of a throttle valve, in fact, no reference shows a control unit connected to a throttle valve actuator. The Jager et al reference is used as a secondary reference to Tischer to show that it is well known in the art to have a piston sensor and a control unit used for control of the piston since the Jager unit basically controls all the components of the drivetrain, and although the unit is not used to control a throttle actuator in Jager, it is used to control an actuator. Since Tischer already discloses a throttle valve controlled by an actuator, but lacks teaching of a control unit for the actuator, the Jager reference can be combined with Tischer to show that it would be well known in the art to use a control unit as in Jager to control a throttle

actuator of Tischer since again the unit of Jager controls all the components of the drivetrain anyway.

Allowable Subject Matter

Claims 19-25 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to TISHA D. LEWIS whose telephone number is 571-272-7093. The examiner can normally be reached on M-F 9AM TO 5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, CHARLES A. MARMOR can be reached on 571-272-7095. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Tdl
May 19, 2008
/TISHA D. LEWIS/
Primary Examiner, Art Unit 3681